

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CHARLENE MORRIS and RAMON SOTO,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

PIM BRANDS, INC.,

Defendant.

Case No.: 1:25-cv-00405

Hon. Andrea R. Wood

Magistrate Judge Jeannice W. Appenteng

**DECLARATION OF SEAN H. SUBER IN SUPPORT OF DEFENDANT
PIM BRANDS, INC.'S MOTION FOR COSTS AND FEES UNDER RULE 41(d)**

I, Sean H. Suber, declare as follows:

1. I am a partner with the law firm of Winston & Strawn LLP and am counsel of record for Defendant in the above-captioned action. I am a member in good standing of the bars of Illinois and Maryland; the United States District Courts for the Eastern District of Michigan and the Northern and Central Districts of Illinois; and the United States Courts of Appeals for the Second Circuit, Third Circuit, Fifth Circuit, Sixth Circuit, Seventh Circuit, Eighth Circuit, Ninth Circuit, Eleventh Circuit, and Federal Circuit. Except as otherwise noted, I have personal knowledge of the facts stated herein, and, if called as a witness, I could and would competently testify thereto.

2. Attached as **Exhibit A** to this Declaration is a true and correct copy of the Amended Complaint filed by Charlene Morris, Plaintiff in the above-captioned action, on July 19, 2024, against Defendant PIM Brands, Inc. in the Western District of New York, with the case caption *Morris v. Welch Foods Inc.*, No. 6:24-cv-6385 (W.D.N.Y.).

3. Attached as **Exhibit B** to this Declaration is a true and correct copy of the Memorandum of Law in Support of a Motion to Dismiss filed by Defendant PIM Brands, Inc. on September 23, 2024, in *Morris v. Welch Foods Inc.*, No. 6:24-cv-6385 (W.D.N.Y.).

4. Attached as **Exhibit C** to this Declaration is a true and correct copy of images depicting the front labels of boxes of Welch's® Fruit 'n Yogurt™ Snacks in the "Strawberry," "Blueberry-Acai," and "Mango-Peach" varieties. These images were pulled from the webpage for these products on PIM's website on January 27, 2025. The landing page for these products can be found here: <https://welchsfruitsnacks.com/product-categories/fruit-n-yogurt/>.

5. Attached as **Exhibit D** to this Declaration is a true and correct copy of a representative ingredients list depicted on the rear label of the "Strawberry" variety of Welch's® Fruit 'n Yogurt™ Snacks. This image was also pulled from the webpage of this product on PIM's website on January 27, 2025. Specifically, the ingredients list depicted has been reproduced from the webpage associated with the "Strawberry" variety of Welch's® Fruit 'n Yogurt™ Snacks. The links to that page can be found here: <https://welchsfruitsnacks.com/products/strawberry-yogurt/>.

6. Attached as **Exhibit E** to this Declaration is a true and correct copy of an online advertisement for legal services published on social media websites Facebook and Instagram by the account "@Injured 914." This ad was brought to my attention on November 6, 2024. The Facebook account for @Injured914 links to injured914.com. If one accessed injured914.com as of November 6, 2024, and still to this day, the link leads to the website of Denlea & Carton LLP (denleacarton.com), who are the attorneys that represented Plaintiff Charlene Morris in *Morris v. Welch Foods Inc.*, No. 6:24-cv-6385 (W.D.N.Y.) and who represent Ms. Morris in the above-captioned action. To understand the scope and proliferation of this ad, I accessed the Meta Ad Library, which provides information on "all the ads currently running across Meta technologies," which includes Facebook and Instagram. The Meta Ad Library's website can be found here: <https://www.facebook.com/ads/library>. At the time, the Meta Ad Library reflected that Meta had started running the ad reflected in Exhibit E on October 8, 2024. I am no longer able to access the page for this Declaration, however, because the ad is no longer running, and, as mentioned, the Library only provides information about "all the ads *currently* running across Meta technologies."

7. Attached as **Exhibit F** to this Declaration is a true and correct copy of a comparative redline of Plaintiffs' Complaint in the above-captioned action and the amended complaint filed by Plaintiff Charlene Morris in *Morris v. Welch Foods Inc.*, No. 6:24-cv-6385 (W.D.N.Y.).

8. Attached as **Exhibit G** to this Declaration is a true and correct copy of an email sent by Catherine Friesen and Jeff Carton, counsel who represented Plaintiff Charlene Morris in *Morris v. Welch Foods Inc.*, No. 6:24-cv-6385 (W.D.N.Y.) and who represents Ms. Morris in the above-captioned action, to myself on January 21, 2025. The subject line of the email is "Morrison v. PIM Brands," and in the email, Ms. Friesen states that, among other things, "I look forward to our continued communication about the matter."

I declare under penalty of perjury under the laws of the State of Illinois that the foregoing is true and correct. Executed on January 27, 2025, in Chicago, Illinois.

Dated: January 27, 2025

/s/ Sean H. Suber

Sean H. Suber